

**Introduced by Senator Alarcon**

December 5, 2000

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An act to amend Sections 1262, 1275, 1280, and 1327 of, and to add Sections 1262.1 and 1265.1 to, the Unemployment Insurance Code, relating to unemployment insurance, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 40, as introduced, Alarcon. Unemployment insurance: benefits: compensation.

(1) Existing law provides that an individual is not eligible for and shall not receive unemployment compensation benefits if the individual left work because of a trade dispute.

This bill would exempt from this ineligibility provision an individual who leaves his or her work because of a trade dispute that is the result of a reduction in wages and benefits that would otherwise be deemed good cause for the individual leaving his or her most recent work. This bill would also provide that unemployment compensation benefits shall not be denied to an otherwise eligible individual who is locked out by his or her employer after having made an unconditional offer to return to work.

(2) Existing law specifies that a person is "unemployed" in any week during which he or she performs no services and with respect to which no wages are payable to him or her.

This bill would require that payments received from an employer, that has failed to provide advance notice of facility closure required by the federal Worker Adjustment Renotification and Training Act, not be construed to be wages or compensation for personal services for

purposes of determination of eligibility for unemployment compensation benefits.

(3) Under existing law, unemployment compensation benefits are based on wages paid in a base period that is calculated according to the month within which the benefit year begins.

This bill would, as specified, revise the calculations for these base periods, and would set forth the base period for any new claim filed on and after January 1, 2002, if an individual has not been paid sufficient wages to establish a benefit year.

The bill would require the Department of Employment Development to request wage information with regard to these new claims, and would assess a penalty of \$250 on an employer who fails to provide this information within 10 days from the requested date.

(4) Under existing law, the weekly unemployment compensation benefit for an individual whose highest wages in the quarter of his or her base period exceeded a specified amount is 39% of those wages divided by 13, but may not exceed \$230.

This bill would, for new claims filed with an effective date after January 1, 2002, specify a weekly benefit for an individual whose highest wages in the quarter of his or her base period exceeded a specified amount of 50% of those wages divided by 13, and would also increase, in accordance with a certain schedule, the maximum weekly benefit to the greater of a specified dollar amount or an amount equal to a specified percentage of the state's average weekly wage for the prior fiscal year.

Because this provision would increase the amount of unemployment compensation paid, it would increase the amount payable from the Unemployment Fund, a continuously appropriated special fund, and thereby would make an appropriation.

Vote: majority. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 1262 of the Unemployment Insurance  
 2 Code is amended to read:  
 3 1262. An individual is not eligible for unemployment  
 4 compensation benefits, and no ~~such benefit~~ *benefits* shall be  
 5 payable to him *or her*, if he *or she* left his *or her* work because of  
 6 a trade dispute. ~~Such individual~~, *except that benefits may not be*

denied to that individual if the trade dispute is the result of a reduction in wages and benefits that would be deemed good cause under this article for an individual leaving his or her most recent work. An ineligible individual under this section shall remain ineligible for the period during which he or she continues out of work by reason of the fact that the trade dispute is still in active progress in the establishment in which he or she was employed.

SEC. 2. Section 1262.1 is added to the Unemployment Insurance Code, to read:

1262.1. Notwithstanding Section 1262, unemployment compensation benefits may not be denied to an otherwise eligible individual who is locked out by his or her employer after having made an unconditional offer to return to work.

SEC. 3. Section 1265.1 is added to the Unemployment Insurance Code, to read:

1265.1. Notwithstanding any other provision of this division, payments to an individual by an employer who has failed to provide the advance notice of facility closure required by the federal Worker Adjustment Renotification and Training (WARN) Act (29 U.S.C. Sec. 1201 et seq.) shall not be construed to be wages or compensation for personal services under this division, and benefits payable under this division shall not be denied or reduced because of the receipt of payments related in any way to an employer's violation of the WARN Act.

SEC. 4. Section 1275 of the Unemployment Insurance Code is amended to read:

1275. (a) Unemployment compensation benefit award computations shall be based on wages paid in the base period. "Base period" means: for benefit years beginning in *October*, *November*, *or December*, ~~or January~~, the four calendar quarters ended in the next preceding month of June; for benefit years beginning in *January*, *February*, *or March*, ~~or April~~, the four calendar quarters ended in the next preceding month of September; for benefit years beginning in *April*, *May*, *or June*, ~~or July~~, the four calendar quarters ended in the next preceding month of December; for benefit years beginning in *July*, *August*, *or September*, ~~or October~~, the four calendar quarters ended with the next preceding month of March. Wages used in the determination of benefits payable to an individual during any benefit year shall

1 may not be used in determining ~~such~~ that individual's benefits in  
 2 any subsequent benefit year.

3 (b) For any new claim filed with an effective date on or after  
 4 January 1, 2002, if an individual has not been paid sufficient  
 5 wages in the first four of the last five completed calendar quarters  
 6 to entitle the individual to establish a benefit year, then "base  
 7 period" means the most recent 52 weeks before the first day of the  
 8 individual's benefit year as defined in Section 1276. Each quarter  
 9 of this base period shall consist of four consecutive 13-week  
 10 periods. As provided in Section 1280, the quarter with the highest  
 11 wages shall be used to determine the individual's weekly benefit  
 12 amount.

13 SEC. 5. Section 1280 of the Unemployment Insurance Code  
 14 is amended to read:

15 1280. (a) For any new claims filed with an effective date on  
 16 or after January 1, ~~1990~~ 1992, and prior to January 1, 2002, an  
 17 individual's weekly benefit amount is the amount appearing in  
 18 column B in the following table opposite that wage bracket in  
 19 column A ~~which~~ that contains the amount of wages paid to the  
 20 individual for employment by employers during the quarter of his  
 21 or her base period in which his or her wages were the highest.

A Amount of wages in highest quarter	B Weekly benefit amount
\$900.00– 948.99 .....	40
949.00– 974.99 .....	41
975.00–1,000.99 .....	42
1,001.00–1,026.99 .....	43
1,027.00–1,052.99 .....	44
1,053.00–1,078.99 .....	45
1,079.00–1,117.99 .....	46
1,118.00–1,143.99 .....	47
1,144.00–1,169.99 .....	48
1,170.00–1,195.99 .....	49
1,196.00–1,221.99 .....	50
1,222.00–1,247.99 .....	51
1,248.00–1,286.99 .....	52
1,287.00–1,312.99 .....	53
1,313.00–1,338.99 .....	54

1	1,339.00–1,364.99	55
2	1,365.00–1,403.99	56
3	1,404.00–1,429.99	57
4	1,430.00–1,455.99	58
5	1,456.00–1,494.99	59
6	1,495.00–1,520.99	60
7	1,521.00–1,546.99	61
8	1,547.00–1,585.99	62
9	1,586.00–1,611.99	63
10	1,612.00–1,637.99	64
11	1,638.00–1,676.99	65
12	1,677.00–1,702.99	66
13	1,703.00–1,741.99	67
14	1,742.00–1,767.99	68
15	1,768.00–1,806.99	69
16	1,807.00–1,832.99	70
17	1,833.00–1,871.99	71
18	1,872.00–1,897.99	72
19	1,898.00–1,936.99	73
20	1,937.00–1,975.99	74
21	1,976.00–2,001.99	75
22	2,002.00–2,040.99	76
23	2,041.00–2,066.99	77
24	2,067.00–2,105.99	78
25	2,106.00–2,144.99	79
26	2,145.00–2,170.99	80
27	2,171.00–2,209.99	81
28	2,210.00–2,248.99	82
29	2,249.00–2,287.99	83
30	2,288.00–2,326.99	84
31	2,327.00–2,352.99	85
32	2,353.00–2,391.99	86
33	2,392.00–2,430.99	87
34	2,431.00–2,469.99	88
35	2,470.00–2,508.99	89
36	2,509.00–2,547.99	90
37	2,548.00–2,586.99	91
38	2,587.00–2,625.99	92
39	2,626.00–2,664.99	93



1	2,665.00–2,703.99 .....	94
2	2,704.00–2,742.99 .....	95
3	2,743.00–2,781.99 .....	96
4	2,782.00–2,820.99 .....	97
5	2,821.00–2,859.99 .....	98
6	2,860.00–2,898.99 .....	99
7	2,899.00–2,937.99 .....	100
8	2,938.00–2,989.99 .....	101
9	2,990.00–3,028.99 .....	102
10	3,029.00–3,067.99 .....	103
11	3,068.00–3,106.99 .....	104
12	3,107.00–3,158.99 .....	105
13	3,159.00–3,197.99 .....	106
14	3,198.00–3,236.99 .....	107
15	3,237.00–3,288.99 .....	108
16	3,289.00–3,327.99 .....	109
17	3,328.00–3,379.99 .....	110
18	3,380.00–3,418.99 .....	111
19	3,419.00–3,470.99 .....	112
20	3,471.00–3,509.99 .....	113
21	3,510.00–3,561.99 .....	114
22	3,562.00–3,600.99 .....	115
23	3,601.00–3,652.99 .....	116
24	3,653.00–3,704.99 .....	117
25	3,705.00–3,743.99 .....	118
26	3,744.00–3,795.99 .....	119
27	3,796.00–3,847.99 .....	120
28	3,848.00–3,899.99 .....	121
29	3,900.00–3,938.99 .....	122
30	3,939.00–3,990.99 .....	123
31	3,991.00–4,042.99 .....	124
32	4,043.00–4,079.99 .....	125
33	4,080.00–4,116.99 .....	126
34	4,117.00–4,153.99 .....	127
35	4,154.00–4,190.99 .....	128
36	4,191.00–4,227.99 .....	129
37	4,228.00–4,264.99 .....	130
38	4,265.00–4,301.99 .....	131
39	4,302.00–4,338.99 .....	132



1	4,339.00–4,375.99 .....	133
2	4,376.00–4,412.99 .....	134
3	4,413.00–4,449.99 .....	135
4	4,450.00–4,486.99 .....	136
5	4,487.00–4,523.99 .....	137
6	4,524.00–4,560.99 .....	138
7	4,561.00–4,597.99 .....	139
8	4,598.00–4,634.99 .....	140
9	4,635.00–4,671.99 .....	141
10	4,672.00–4,708.99 .....	142
11	4,709.00–4,745.99 .....	143
12	4,746.00–4,782.99 .....	144
13	4,783.00–4,819.99 .....	145
14	4,820.00–4,856.99 .....	146
15	4,857.00–4,893.99 .....	147
16	4,894.00–4,930.99 .....	148
17	4,931.00–4,966.99 .....	149

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19 ~~(b) For new claims filed with an effective date beginning on or~~  
20 ~~after January 1, 1990, and prior to January 1, 1991, if the amount~~  
21 ~~of wages paid an individual for employment by employers exceeds~~  
22 ~~four thousand nine hundred sixty-six dollars and ninety-nine cents~~  
23 ~~(\$4,966.99) the quarter of his or her base period in which these~~  
24 ~~wages were highest, the individual's weekly benefit amount shall~~  
25 ~~be 39 percent of these wages divided by 13, but in no case shall this~~  
26 ~~amount exceed one hundred ninety dollars (\$190). If the benefit~~  
27 ~~payable under this subdivision is not a multiple of one dollar (\$1),~~  
28 ~~it shall be computed to the next higher multiple of one dollar (\$1).~~

29 ~~(c) For new claims filed with an effective date beginning on or~~  
30 ~~after January 1, 1991, and prior to January 1, 1992, if the amount~~  
31 ~~of wages paid an individual for employment by employers exceeds~~  
32 ~~four thousand nine hundred sixty-six dollars and ninety-nine cents~~  
33 ~~(\$4,966.99) in the quarter of his or her base period in which these~~  
34 ~~wages were highest, the individual's weekly benefit amount shall~~  
35 ~~be 39 percent of these wages divided by 13, but in no case shall this~~  
36 ~~amount exceed two hundred ten dollars (\$210). If the benefit~~  
37 ~~payable under this subdivision is not a multiple of one dollar (\$1),~~  
38 ~~it shall be computed to the next higher multiple of one dollar (\$1).~~

39 ~~(d) For new claims filed with an effective date beginning on or~~  
40 ~~after January 1, 1992, if the amount of wages paid an individual~~



~~for employment by employers exceeds four thousand nine hundred sixty-six dollars and ninety-nine cents (\$4,966.99) in the quarter of his or her base period in which these wages were highest, the individual's weekly benefit amount shall be 39 percent of these wages divided by 13, but in no case shall this amount exceed two hundred thirty dollars (\$230). If the benefit payable under this subdivision is not a multiple of one dollar (\$1), it shall be computed to the next higher multiple of one dollar (\$1).~~

*If the amount of wages paid an individual for employment by employers exceeds four thousand nine hundred sixty-six dollars and ninety-nine cents (\$4,966.99) in the quarter of his or her base period in which these wages were highest, the individual's weekly benefit amount shall be 39 percent of these wages divided by 13, but in no case shall this amount exceed two hundred thirty dollars (\$230). If the benefit payable under this subdivision is not a multiple of one dollar (\$1), it shall be computed to the next higher multiple of one dollar (\$1).*

*(b) For new claims filed with an effective date beginning on or after January 1, 2002, an individual's weekly benefit amount is the amount appearing in column B in the following table opposite that wage bracket in column A that contains the amount of wages paid to the individual for employment by employers during the quarter of his or her base period in which his or her wages were the highest.*

A	B
Amount of wages in highest quarter	Weekly benefit amount
\$900.00– 948.99 .....	40
949.00– 974.99 .....	41
975.00–1,000.99 .....	42
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15	1,703.00–1,741.99 .....	67
16	1,742.00–1,767.99 .....	68
17	1,768.00–1,806.99 .....	69
18	1,807.00–1,832.99 .....	70

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20 *If the amount of wages paid an individual for employment by*  
 21 *employers exceeds one thousand eight hundred thirty-two dollars*  
 22 *and ninety-nine cents (\$1,832.99) in the quarter of his or her base*  
 23 *period in which these wages were highest, the individual's weekly*  
 24 *benefit amount shall be 50 percent of these wages divided by 13,*  
 25 *but in no case shall this amount exceed the applicable of the*  
 26 *following:*

27 *(1) For new claims filed with an effective date beginning on or*  
 28 *after January 1, 2002, and before January 1, 2003, three hundred*  
 29 *dollars (\$300), or 45 percent of the state's average weekly wage*  
 30 *for the prior fiscal year, whichever is greater.*

31 *(2) For new claims filed with an effective date beginning on or*  
 32 *after January 1, 2003, and before January 1, 2004, three hundred*  
 33 *forty dollars (\$340) or 50 percent of the state's average weekly*  
 34 *wage for the prior fiscal year, whichever is greater.*

35 *(3) For new claims filed with an effective date beginning on or*  
 36 *after January 1, 2004, three hundred eighty dollars (\$380) or 50*  
 37 *percent of the state's average weekly wage for the prior fiscal year,*  
 38 *whichever is greater.*



1 *If the benefit payable under this subdivision is not a multiple of*  
2 *one dollar (\$1), it shall be computed to the next higher multiple of*  
3 *one dollar (\$1).*

4 SEC. 6. Section 1327 of the Unemployment Insurance Code  
5 is amended to read:

6 1327. (a) The department shall give a notice of the filing of  
7 a new or additional claim to the employing unit by which the  
8 claimant was last employed immediately preceding the filing of  
9 the claim unless the additional claim is the result of the filing of  
10 a partial claim as defined by the department, there has not been a  
11 subsequent employing unit which is designated as the last  
12 employer, and there is no separation issue. The employing unit so  
13 notified shall submit within 10 days after the mailing of the notice  
14 any facts then known ~~which~~ *that* may affect the claimant's  
15 eligibility for benefits, including, but not limited to, facts  
16 pertaining to eligibility under Section 1256. The 10-day period  
17 may be extended for good cause. If after the 10-day period the  
18 employing unit acquires knowledge of facts ~~which~~ *that* may affect  
19 the eligibility of the claimant and facts could not reasonably have  
20 been known within the period, the employing unit shall, within 10  
21 days of acquiring the knowledge, submit the facts to the  
22 department, and the 10-day period may also be extended for good  
23 cause.

24 (b) *Upon the filing of a new claim for benefits, if an individual*  
25 *is entitled under subdivision (b) of Section 1275 to establish a*  
26 *claim using a base period of the last four completed calendar*  
27 *quarters before the first day of the individual's benefit year, the*  
28 *department shall request wage information covering the quarters,*  
29 *as defined in subdivision (b) of Section 1275. The wage*  
30 *information shall be used by the department to promptly make a*  
31 *computation on the claim as provided in Section 1329. If an*  
32 *employer fails to provide wage information to the department*  
33 *within 10 days from the requested date, the employer shall be*  
34 *assessed a penalty of two hundred fifty dollars (\$250). The*  
35 *provisions of this article, Article 9 (commencing with Section*  
36 *1176) of Chapter 4, with respect to refunds, and Chapter 7*  
37 *(commencing with Section 1701), with respect to collections,*  
38 *apply to the assessments provided by this section. Penalties*



- 1 *collected under this section shall be deposited in the Contingent*
- 2 *Fund.*

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